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**FILED**

Date 10/10/13 By

Susan Saylor

9 **BEFORE THE**  
10 **STRUCTURAL PEST CONTROL BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Petition to Revoke  
Probation Against:

Case No. 2011-68

14 **RANDY J. SARMIENTO**  
15 **1430 E. Lexington Avenue, Space #62**  
**El Cajon, CA 92019**

PETITION TO REVOKE PROBATION

16 **Applicator License No. RA 52189**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Susan Saylor (Complainant) brings this Petition to Revoke Probation solely in her  
22 official capacity as the Registrar/Executive Officer of the Structural Pest Control Board,  
23 Department of Consumer Affairs.

24 2. On or about June 15, 2011, the Structural Pest Control Board issued Applicator  
25 License Number RA 52189 to Randy J. Sarmiento (Respondent). The Applicator License was in  
26 effect at all times relevant to the charges brought herein and will expire on June 15, 2014, unless  
27 renewed.

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3. In a disciplinary action entitled "*In the Matter of Stipulation for a Probationary License Against Randy J. Sarmiento*," Case No. 2011-68, the Structural Pest Control Board issued an order, effective June 15, 2011, in which an Applicator License was issued to Respondent and placed on probation for a period of three (3) years with certain terms and conditions. A copy of that stipulation and order is attached as Exhibit A and is incorporated by reference.

## JURISDICTION

4. This Petition to Revoke Probation is brought before the Structural Pest Control Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action.

6. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

### CAUSE TO REVOKE PROBATION

(Quarterly Reports)

7. At all times after the effective date of Respondent's probation, Condition 3 stated "Applicant shall file quarterly reports with the Board during the period of probation."

8. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 3, referenced above. The facts and circumstances regarding this violation are as follows:

a. On June 15, 2011, the Board mailed a letter to Respondent enclosing a copy of the stipulation and order. The letter specifically stated that Respondent was to file quarterly reports no later than one week after the following dates: September 15, December 15, March 15, and June 15. Respondent was provided with the report format.

1           b.     Respondent failed to file his first quarterly report due September 15, 2011.  
2     After making a personal visit to Respondent's address of record, a probation monitor from the  
3     Board reviewed the order with Respondent and had him initial each probation term. Respondent  
4     assured the probation monitor that he would file his quarterly report as soon as possible.  
5     Respondent failed to file the report.

6           c.     Respondent failed to file quarterly reports that were due on December 15, 2011,  
7     March 15, 2012, June 15, 2012, September 15, 2012, December 15, 2012, March 15, 2013, June  
8     15, 2013, and September 15, 2013.

9                           **DISCIPLINARY CONSIDERATIONS**

10          9.     To determine the degree of discipline, if any, to be imposed on Respondent,  
11     Complainant alleges that Respondent was convicted of the following pre-licensure criminal  
12     offenses:

13           a.     On or about October 11, 2005, in San Diego County Superior Court,  
14     Respondent was convicted of violating Health and Safety Code section 11377, subdivision (a),  
15     possession of a controlled substance.

16           b.     On or about January 25, 2006, in San Diego County Superior Court,  
17     Respondent was convicted of violating Penal Code section 415(1), fighting in a public place.

18           c.     On or about February 17, 2006, in San Diego County Superior Court,  
19     Respondent was convicted of violating Health and Safety Code section 11377, subdivision (a),  
20     possession of a controlled substance.

21           d.     On or about September 20, 2006, in San Diego County Superior Court,  
22     Respondent was convicted of violating Penal Code section 496, subdivision (d), receiving stolen  
23     property.

24           e.     On or about May 16, 2007, in San Diego County Superior Court, Respondent  
25     was convicted of violating Penal Code section 459, burglary of a vehicle.

26           f.     On or about August 13, 2008, in San Diego County Superior Court, Respondent  
27     was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood  
28     alcohol concentration of .08 percent or more.

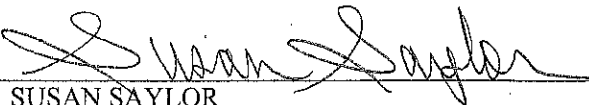
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

1. Revoking the probation that was granted by the Structural Pest Control Board in Case No. 2011-68, thereby revoking Applicator License No. RA 52189 issued to Randy J. Sarmiento;
2. Revoking or suspending Applicator License No. RA 52189, issued to Randy J. Sarmiento;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/10/13



SUSAN SAYLOR  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
*Complainant*

SD2013705733